

**BINDING AND ENFORCEABLE MEMORANDUM OF SETTLEMENT
FOLLOWING MEDIATION**

Case: Juarez v. City of Rancho Mirage, Superior Court of the State of California, County of Riverside, Case No. PSC 1403469 (herein, the Action) (herein, the Action).

Parties: The parties to this agreement are:

Plaintiffs: Veronica Juarez (herein, Veronica)
Erik J. Munoz (herein, Erik)
Israel Gonzalez Paz (herein, Israel)
Aura Marina Lopez, (herein, Aura)
All of the above are sometimes referred to, collectively, as Plaintiffs.

Defendants: City of Rancho Mirage (herein CITY); City of Rancho Mirage Housing Authority (herein AUTHORITY), both of which defendants are sometimes referred to, collectively, as Defendants.

Date: The date of this agreement is: April 12, 2019

Terms

This is to memorialize that following mediation, the parties have agreed to settle the above Action, and all related and/or potential cross-claims, together with all issues therein, as follows:

Settlement Sum. Defendants shall pay to each Plaintiff in satisfaction of all of said Plaintiffs claims herein the sum set forth below across from each respective Plaintiff's name:

Plaintiff:	Settlement Amount
Veronica	\$175,000
Erik	\$47,500
Israel	\$47,500
Aura	\$47,500
TOTAL	\$317,500.00

Said sum shall be paid by check or checks made payable to Law Office of Annette Morasch, APC, Client Trust Account.

Attorney's Fees Payment: In addition to the above payments, Defendants shall also pay to counsel for plaintiff the sum of \$175,000 for attorney's fees herein and an additional

amount of \$7,500 as and for costs of suit. Said sum shall be paid by check made payable to Law Office of Annette Morasch, APC. By her signature below Ms. Morasch acknowledges that these payments represent full satisfaction of any and all recoverable attorney's, including but not limited to, Private Attorney General Act attorney's fees.

Creation of Replacement Housing. Defendants agree that within 2 years from the date of this agreement, Defendants will issue a building permit to commence the construction of 126 affordable family dwelling units for moderate, low income and very low income families. Plaintiffs to have right of first refusal to participate in said housing.

Conditioned on Approval. This settlement agreement is conditioned on approval by the CITY and the AUTHORITY, said approval to be obtained no later than April 25. If either the CITY and/or the AUTHORITY fails to approve this agreement by April 25, then the parties will meet and confer in an attempt to resolve the matter. If the parties are not able to come to resolution, the parties agree to mediate the matter before the Hon. Robert G. Taylor (Ret.).

Notice of Settlement and Dismissals. Counsel for Plaintiffs will file a notice of settlement with the court in accordance with CRC 3.1385, if applicable to this case. The parties shall cause to be filed dismissals with prejudice of all complaints and all cross-complaints (if any) herein within thirty (30) days from payment of the settlement sum.

Release. Except for the obligations required to be performed herein, the parties agree this is a final and binding settlement of all claims between and among the parties. The parties release each other, and each of their officers, directors, employees, agents, and attorneys; and affiliate, parent and subsidiary companies; affiliated agencies; successors and assigns, and their respective heirs and personal representatives, from any and all claims, liabilities, and causes of action either may have against the other, including but not limited to attorney's fees, whether based on Private Attorney General Act or otherwise. It is also a full release of all claims between and among the parties, whether known or unknown. Accordingly, the parties waive the provisions of Civil Code Section 1542, which reads as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

Thus, and contrary to the provisions of Civil Code Section 1542, this settlement and release shall be a full release of all claims between and among the parties, whether known or unknown.

Attorney's Fees. Each side shall bear his/her/its own costs and attorney's fees; provided, however, that in the event an action or proceeding is brought to enforce the

terms of this agreement, the prevailing party in any such action or proceeding shall be entitled to recover reasonable attorney's fees and costs.

No Admission of Liability. This Agreement does not constitute and shall not be construed as an admission of liability by either party but, rather, is entered into in compromise of disputed claims.

Formal Agreement to be Prepared. This agreement is intended to be binding and enforceable. However, it is understood this memorandum agreement is being drafted at the mediation and does not necessarily contain all terms that would normally be included in a formal settlement agreement for a case of this nature and/or does not include all the general terms that would be customary to include in a formal settlement agreement. Unless otherwise waived by the parties, it is agreed that the settlement herein shall be further memorialized by a formal settlement agreement. The initial draft of the formal settlement agreement shall be prepared by counsel for **Defendants**, said agreement shall contain the normal and customary terms of a settlement agreement, including, but not limited to, a full mutual release of all claims by all parties together with a waiver of Civil Code Section 1542.

Cooperation, Execution and Delivery of Documents: All parties agree to cooperate to implement the terms of this agreement and to execute and deliver all documents reasonably necessary to implement said agreement.

This Agreement is Binding and Enforceable. Notwithstanding that this memorandum of settlement contemplates the preparation of a formal settlement agreement, each party agrees and fully understands that **this agreement is binding, final and enforceable, whether or not any formal agreement is, or is not, executed.** Pursuant to Evidence Code § 1123, this agreement is enforceable, binding and admissible in a court of law and is expressly made subject to disclosure to prove the existence of and/or to enforce this agreement.

No Advice by Mediator, Disclaimer and Release of Mediator. The mediator has acted solely as a facilitator in the resolution of this dispute. The parties agree and understand that the mediator cannot and has not given any legal advice in this matter. The parties cannot and do not rely on any statements or comments made by the mediator. Any such statements or comments of the mediator were made in the context of discussion only in an attempt to help resolve the case and not as legal advice. At all times, the parties have been represented by independent counsel during this mediation. The parties have relied solely on their respective counsel for any legal advice herein, including the content of this agreement, and not on the mediator. At the request of, and as a courtesy to, the parties and counsel, the mediator has provided this template of Memorandum of Settlement for use at the mediation and/or has otherwise helped to memorialize the parties' agreement herein. However, the content hereof (including substance and form) was determined by, supervised by and reviewed by counsel for

each party and the parties do not rely on the mediator with regard to the content hereof. The parties hereby release the mediator, Desert ADR and Juniper Tree, Inc., along with its officers, employees, and agents from any and all claims, whether based on a claim of negligence or otherwise, and/or liability of any kind, all to the extent permitted by law, relative to this agreement and all services performed herein. As noted above, this agreement contemplates counsel drafting, and the parties executing, a more formal settlement agreement subsequent to the mediation.


Authority to Bind. Each person executing this agreement represents that he or she has full and legal authority to execute this agreement for and on behalf of the respective party for which he or she is executing this agreement and to bind that party.

Counter Parts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same agreement. It is agreed that electronic signature and/or signature by fax and/or photocopy shall be deemed an original signature, binding the signing party hereto.


CCP Section 664.6. The parties agree that this agreement shall be enforceable under Code of Civil Procedure section 664.6. The parties expressly request the court to retain jurisdiction over the interpretation, implementation and enforcement of this agreement.

The parties enter into this memorandum of settlement on the date written above, in Palm Springs, California.



Veronica Juarez


Erik J. Munoz


Israel Gonzalez Paz


Aura Marina Lopez

City of Rancho Mirage

By 
Steven B. Quintanilla, City Attorney

Housing Authority

By 
Steven B. Quintanilla, General Legal Counsel

APPROVED AS TO FORM:

By each counsel as to each counsel's respective client(s) only.


Annette Morasch of Law Office of Annette
Morasch, APC, counsel for Plaintiffs


Michael D. Sargent of Graves & King LLP,
counsel for Defendants

Declaration of Translator

I, Yeny Rosales, hereby state that I am a certified interpreter and I am fluent in the Spanish language. I read and speak Spanish fluently because it is one of my Native languages.

On this date, I provided a correct and complete oral translation, word for word, of the entire contents of this document into the Spanish language to the above Plaintiffs. In response to my inquiry, each Plaintiff, stated that he/she had no difficulty understanding me and stated they agreed to the terms of the above agreement.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on April 12, 2019, in Palm Springs, California.


Yeny Rosales, Certified Interpreter